



U.S. Army Corps
of Engineers
Baltimore District

Public Notice

In reply, refer to Special Public Notice 05-40

Date: October 7, 2005

Use of State and Federal Highway Funds for Section 404 Permit Review

This public notice announces a proposal by the Baltimore District of the U.S. Army Corps of Engineers to accept and expend State and/or Federal highway funds for the purpose of providing priority review of permit applications from the Maryland State Highway Administration (SHA).

The Baltimore District processes applications for Department of the Army permits under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. SHA projects requiring an Environmental Impact Statement to comply with the National Environmental Policy Act (NEPA) are evaluated using a process that merges the procedural requirements of NEPA and the Department of the Army permit process.

This merged process has resulted in more-efficient project management by eliminating the redundant steps that were required when the NEPA and permitting processes were operating independently of one another. The merged process allows the project to be evaluated under state and federal environmental laws while gaining input from the environmental agencies and the public. The goal of the merged process is the development of environmentally-sensitive projects, while streamlining and expediting project reviews.

While this process eliminates redundancy, it requires much greater involvement by the Corps and environmental agencies throughout project planning, development, and implementation. It is anticipated that SHA's needs for environmental reviews and permit evaluations will continue to increase in the future. In order to maintain our current efforts and provide for future reviews, the Transportation Equity Act for the 21st Century (TEA-21) (P.L. 105-178), and subsequent highway bill SAFTEA LU (P.L. 109-59), provide a mechanism to provide funds to affected Federal and State agencies participating in the environmental review process. The Water Resources Development Act (WRDA) of 2000, sanctioned the acceptance of these funds by the Corps. This authority expired on September 30, 2005, however, Congress is currently considering a bill to extend this authority. After September 30, the Corps will not be able to accept such funds unless, and until, subsequent authority is granted by Congress.

In order to ensure impartial decision making, all final permit decisions for projects where such funding is used would be reviewed by at least one level above the project manager. The Baltimore District proposes to use these funds to manage SHA projects from inception through the issuance of a Corps permit, as well as to monitor permit

compliance during the construction phase of the project. Funds would primarily be expended on the salaries and overhead of Regulatory staff to support the review of SHA projects. An Agreement will be implemented to govern the transfer of funds and to specify the eligible activities. If it should become necessary to increase the funding during the period covered by the Agreement, a new Public Notice will not be required to implement an increase, provided the purpose for the funding remains the same.

Following the close of this Public Notice, the Baltimore District Commander will determine whether or not acceptance and expenditure of funds is in compliance with the above authorities and the public interest is better served through cost-effectiveness, enhanced evaluation capability, and more-efficient permit processing. The Baltimore District does not expect this method of expediting the permit review of SHA projects to negatively impact the Baltimore District's Regulatory Program or to increase the processing time for other permit applications. A final Public Notice will be issued announcing the District Commander's decision.

Comments should be received at the Baltimore District Office no later than November 7, 2005. Comments should be directed to: U.S. Army Corps of Engineers, Attn: Mr. Abu Moulta-Ali, P.O. Box 1715, Baltimore, MD 21203-1715, or submitted electronically to Abu.Moulta-Ali@nab02.usace.army.mil

If you have any questions, you may contact Mr. Paul Wettlaufer at 410-962-5676.

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